

IN UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. District Court
Wisconsin Eastern

Mar 27 2024

FILED
Clerk of Court

ORIGINAL-1983-COMPLAINT

Damien Shontell Hewlett

V.

Case No. 24cv377

Justin L. Thomsen, Brandon Fischer,
Tanner Leopole, Logan Goehl,
Bridgette Prosper, Unknown John Doe - CO,
Unknown John Doe - CO, [REDACTED] Vana Pusich,
B. Kolb, Warden Randall Hepp

(A) PARTIES

1. Plaintiff is a citizen of Wisconsin, and is located at Waupun Correctional Institution, 200 S. Madison St., P.O. Box 351, Waupun, WI, 53963.
2. Defendants Justin Thomsen, Brandon Fischer, Tanner Leopole, Logan Goehl, Bridgette Prosper, [REDACTED], John Doe - CO, and John Doe - CO, is citizens of Wisconsin, and I'm not aware as to what each separate Defendants' address is, yet I know that these Defendants were working for the Wisconsin Department of Corrections at Waupun Correctional Institution at the address of 200 S. Madison St., P.O. Box 351, Waupun, WI, 53963.

(B) STATEMENT OF CLAIM

I'll now elaborate to the Court, verbatim, the informational chain of events which transpired that have given rise to the deprivation of my constitutional Rights

Pursuant First Amendment due to retaliatory OC-Spraying for ^{complaining-} talking about staff,
 Pursuant the Eighth Amendment due to "Excessive Force," and Pursuant
 the Eighth Amendment due to "Failure to Intervene" or Failure To Protect,
 and also Pursuant the Eighth, Fourth, and Fourteenth Constitutional
 Amendment Rights that would govern my Rights within a truly
 demeaning, retaliatory, unwarranted, sexual abusive, forced, strip-
 search Scenario. On the date of 11/5/2023, I was in the
 Restrictive Housing Unit in Waupun Correctional Institution, and was
tethered to the door in the strip cage, was "not" hurting myself,
 was "no" threat to anyone else, and was actually respect-
ful and cordial with staff through out this situation! I told
 staff that I was just going to sit in the strip cage, tethered
 to the door, because Lt-Thomsen was lying about me saying I
 was suicidal, and I felt that it was unwarranted to place
 me on OBS, due to a D.O.C.-Employee lying! And so Lt-Thom-
 sen had assembled a suit-up team that consisted of Lt-Thomsen,
 Sergeant-Leopole, CO-Prosper, CO-Goehl, John Doe - CO, John Doe - CO,
 and Lt-Fischer was there on scene and present as well
 as the acting RHM-Supervisor. CO-Prosper was video documentation,
 and when she had began recording, I "did" let it be
known verbally that I was "not" hurting myself, anyone else,
 and was willing to strip out, but first wanted to discuss
 how Lt-Thomsen was violating his Executive Directive #43
 Work Rules by lying to place me on OBS, which is cruel
 and unusual punishment. And Lt-Thomsen must not have liked
 what I was saying, given it was on candid camera, and

Lt-Thomsen had sprayed me in my eyes and face with OC-Spray, and caused me to have burning pain's, for "no justifiable penological purpose", given that I told him that I was "willing" to strip out from the get go when the suit up team got to the strip cage. I knew that what Lt-Thomsen had just done was wrong! And so I had asked Lt-Thomsen why he had sprayed me, and also told him that what he had just done was Excessive Force and violated Governor Tony Evers' "Executive Order #111". Lt-Thomsen must not have liked what I was saying, for he had sprayed me a "second" time, "unjustifiably" for "no penological purpose", with "OC-spray", for simply voicing that what he did was wrong. When I was sprayed the "second" time I was already "incapacitated" from the "first" use of OC-spray, tethered to the strip cage, talking cordially with Doc Staff, was "non-aggressive", and "no threat" to nobody, and "couldn't" see due to the OC-Spray. They "could" have opened the strip cage after the first blast of OC-spray! When this happened I had crouched down, while "still tethered" to strip cell door to show staff that I was "no" threat at all! When staff did open strip cell door, I put up "no" fight at all, and was on my knees, tethered to the strip cage. I had already got bad left knee, and back issues, so I "needed help" to my feet

from staff, and I was disoriented as well from the oc-spray, and instead of getting helped to my feet by these Defendants, I was tased in my back by Lt-~~Thomson~~^{Thomson}. Although I was blinded by the oc-spray, I know that it was Lt-Thomson who tased me, because I heard him say something that sounded sorta like you can stand up, right before I was tased in my back, while I was already incapacitated from two blasts of oc-spray, a bit disoriented, and tethered to strip cage already with unknown co's holding me against strip cage door, for again I couldn't see, only feel and hear my surroundings. Being tased had caused a bolt of pain to shoot throughout my body, and I guess that's how people feel when they get tortured by electric Shock therapy. I had finally got staff help up to my feet, and I had slipped in the mucus and spittle that I was coughing up from the oc-spray. Since I couldn't see due to the oc-spray, I'm not sure who was actually walking me to my next area of their choice, but I know that I could not see from the oc-spray, and staff tried to walk me down some stairs, and I ended up falling and hitting my back on the stairs pretty hard, for my body and muscles felt like jello too after being tased. These unknown co's got me back up, and rest a way down the stairs. I heard water running and so I

"thought" I was going to get to take a shower to get the oc-spray off of me," but "all staff did was place my head" in and out "of running shower, for seconds at a time, while I was handcuffed and controlled by two unknown CO's. I could hear Lt-Thomsen saying something to the other staff present, but didn't catch what was all said for water got in my ear's. But he was present, and I voiced to staff, and pleaded for them to let me wash the oc-spray off with soap, because it was still on me burning and hurting me; and I have hair past my shoulders so oc-spray was all in my hair too; and the water only intensified the oc-spray. And staff did not let me wash the oc-spray off me, knowing it was burning and hurting me, even after I told them that it violates Doc Policy and was cruel and unusual punishment to not let me shower and get the oc-spray off of me. I was then brought back upstairs and directed back to the strip cage area, tethered to the door again, and directed to my knee's by unknown CO's, for I still couldn't see. I had been through this routine before, and so I told Lt-Thomsen and other present staff that I was willing to strip out for the second time, but I heard Lt-Thomsen say they were going to do a "Staff Assisted Strip Search", and I knew

that a female CO-Prosper was doing the video documentation, and so I voiced that I wanted her to leave the area for it violated my PREA RIGHTS, and nobody made her leave. And since I could not see still from oc-spray, I do not know which CO's were forcefully holding me down on my knees, as I was cuffed behind my back, as a CO forcefully cut my clothes off of my body, fondled my penis and groped my buttocks, all in front of a female CO. And this was "not" an emergency situation, and they "didn't" have to do that to me, for I told them I was "willing" to strip "twice" in this scenario! And Lt-Fisher was the RHU-Supervisor and did "not" intervene, and "allowed" for Lt-Thomsen to use unjustifiable amounts of force, and conduct a unwarranted strip search that is in direct violation of their own DOC 306.17- Search of Inmates Policy. I'm no lawyer and so this complaint shall be held to less stringent standards. I have exhausted all administrative remedies through the ICRS before filing this complaint. And have moved Pursuant DAI 306.00.01(x)(c)(d) to have the "handheld video camera footage" that CO-Prosper was recording this incident with, RHU Security camera footage, and Defendant's involved body worn camera footage, to be Preserved on date 11-22-23 via Lte-J.Muenchow.

And I'm suing under My Eighth Amendment Constitutional Rights for Excessive Force, Failure to Intervene, Failure to Protect, and Deliberate Indifference. As well as any other Constitutional Rights that would have been violated from Defendant's unjustified strip search of my person. And I would ask that this court also hold jurisdiction over the state of WI - Notice of Injury And Claim Pursuant to Wis. Stat. section 893.82 of which I have filed to the Attorney General via certified mail on the date of 1-28-24, given circumstances.

(C) JURISDICTION

X. I'm suing for a violation of Federal Law under 28 U.S.C. § 1331.

D. RELIEF WANTED

I'm seeking from "each" defendant, ~~separately~~ a \$1,000,000.00 in compensatory damages, \$1,000,000.00 in punitive damages, \$1,000,000.00 in monetary damages, and \$1,000,000.00 in pain and suffering damages. And I'll also ask for \$500,000.00 from "each" defendant on the separate 893.82 State of Wisconsin Notice of Injury and Claim that I filed.

(E) YES - I DO want a jury to hear my case.

- I declare under the penalty of perjury that the foregoing is true and correct, Pursuant 28 U.S.C. 1746.

Complaint signed this 26 day of March 2024.

Respectfully Submitted By,
Damien Shontell Hewlett

DOC#559455

200 S. Madison St.

P.O. Box 351

Waupun, WI, 53963

- REQUEST TO PROCEED IN DISTRICT COURT WITHOUT
PREPAYING THE FULL FILING FEE

X I DO NOT Request this, and will pay the full filing fee
in the future.